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September 17, 2020

VIA ECF

Hon. Cathy Seibel
The Hon. Charles L. Brieant Jr.
Federal Building and United States Courthouse
300 Quarropas St.
White Plains, New York 10601-4150

Re: Terpin v. Pinsky, 20-CV-3557 (CS) (LMS)

Dear Judge Seibel:

Along with our co-counsel, Greenberg Glusker Field Claman & Machtiner, we represent Plaintiff Michael Terpin in the above matter.

We write in response to Defendant's letter to you of even date. In addition to the reasons set forth in our own earlier letter, we oppose Defendant's request for the following reasons. First, though Mr. Biale asserts that a pre-motion conference under your rules may be advisable, Mr. Biale himself suggested such a conference not be conducted in his September 15 letter to you. Now, however, he claims a conference is necessary, in part because it might limit the scope of his motion to dismiss or result in it not being filed at all. Given that admitted possibility, we believe there is even less reason to tear up the prior schedule that they agreed to and the Court ordered. Second, the schedule Mr. Biale now proposes is grossly unfair. While we have no desire to impede his paternity leave, he is not the only lawyer in his firm working on this case, and the schedule he proposes gives his firm two months to file their motions while providing us with a mere two weeks to respond (and over the Thanksgiving holiday).

Accordingly, we reiterate our request that the two motions be scheduled to be briefed together on the schedule that now exists as to the motion to dismiss. If that cannot be accommodated, we request that the two motions not be briefed together and that the current schedule on the motion to dismiss be maintained, especially given the fact that Mr. Biale himself appears to agree that a conference on his motion to strike may make it inadvisable to even bring it.

We note that Mr. Biale's latest letter was filed via ECF and assume he agrees that these scheduling matters are not confidential and need not be filed under seal. For that reason, we have proceeded via ECF on this letter and have also attached a copy of what we sent You Honor earlier in the day.

Respectfully submitted,

/s/

Cornelius P. McCarthy

cc: N. Biale, Esq. (via ECF)
M. Tremonte, Esq. (via ECF)